

AMENDED IN SENATE MAY 2, 2005

SENATE BILL

No. 105

Introduced by Senator Speier
(Principal coauthor: Senator Soto)
(Principal coauthor: Assembly Member Torrico)

January 20, 2005

An act to amend Sections 21175 and 21192 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 105, as amended, Speier. Disability requirement: medical examinations.

(1) Under the Public Employees' Retirement System, if a recipient of a disability retirement allowance who is under the minimum age for voluntary retirement for ~~services~~ *service* applicable to members of his or her class refuses to submit to a medical examination, the pension portions of his or her allowance may be discontinued until his or her withdrawal of the refusal, or cancelled if the refusal continues for one year.

~~This bill would revise that provision to make it applicable to any recipient of a disability retirement allowance who is less than 59 years of age provide that if a recipient of a disability retirement allowance who is over the minimum age for voluntary retirement for service applicable to members of his or her class, and who has been receiving a retirement allowance for less than 36 months, refuses to submit to a medical examination, the pension portions of his or her allowance may be discontinued until the withdrawal of the refusal.~~

(2) The Board of *Administration of* the Public Employees' Retirement System, or in the case of a local safety member, the governing body of the employer from whose employment the person

was retired, as specified, may require any recipient of a disability retirement *allowance* under the minimum age for voluntary retirement for service applicable to members of his or her class to undergo medical examination, as specified.

This bill would ~~require~~ *provide that* a recipient of a disability retirement who is ~~less than 59 years of age to undergo a medical examination for the purpose of reevaluating his or her disability. The bill would further require the board or governing body to cause a medical examination to be made to determine if a recipient is physically and mentally capable of performing duties in cases in which a recipient applies for reinstatement to his or her former position or another position and meets specified criteria over the minimum age for voluntary retirement for service applicable to members of his or her class, and has been receiving a retirement allowance for less than 36 months, may be subject to that requirement.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21175 of the Government Code is
2 amended to read:
3 21175. If any recipient of a disability retirement allowance
4 ~~who is less than 59 years of age under the minimum age for~~
5 ~~voluntary retirement for service applicable to members of his or~~
6 ~~her class~~ refuses to submit to medical examination, the pension
7 portions of his or her allowance may be discontinued until his or
8 her withdrawal of the refusal. *If any recipient of a disability*
9 *retirement allowance who is over the minimum age for voluntary*
10 *retirement for service applicable to members of his or her class,*
11 *and who has been receiving a disability retirement allowance for*
12 *less than 36 months, refuses to submit to a medical examination,*
13 *the pension portions of his or her allowance may be discontinued*
14 *until his or her withdrawal of the refusal.* If the refusal continues
15 for one year ~~his or her~~, the disability retirement allowance may
16 be canceled.
17 SEC. 2. ~~Section 21192 of the Government Code is amended~~
18 ~~to read:~~

~~21192. The board, or in case of a local safety member, other than a school safety member, the governing body of the employer from whose employment the person was retired, may require any recipient of a disability retirement allowance who is less than 59 years of age to undergo a medical examination for the purpose of reevaluating the status of his or her disability. If a recipient applies for reinstatement to his or her former position, a position in the same classification, or another position in state service, and is at least six months less than the compulsory age of retirement for service in the position for which he or she has applied, the board or, in the case of a local safety member other than a school safety member, the governing body for the employer from whose employment the person was retired, shall cause a medical examination to be made to determine whether the recipient is physically and mentally capable of performing the usual duties of that position.~~

~~The examination shall be made by a physician or surgeon, appointed by the board or the governing body of the employer, at the place of residence of the recipient or other place mutually agreed upon. Upon the basis of the examination, the board or the governing body shall determine whether he or she is still incapacitated, physically or mentally, for duty in the state agency, the university, or contracting agency, where he or she was employed and in the position held by him or her when retired for disability, or in a position in the same classification, and for the duties of the position with regard to which he or she has applied for reinstatement from retirement.~~

SEC. 2. Section 21192 of the Government Code is amended to read:

21192. The board, or in case of a local safety member, other than a school safety member, the governing body of the employer from whose employment the person was retired, may require any recipient of a disability retirement allowance *who is under the minimum age for voluntary retirement for service applicable to members of his or her class or who is over the minimum age for voluntary retirement for service applicable to members of his or her class and has been receiving a retirement allowance for less than 36 months* to undergo medical examination, and upon his or her application for reinstatement, shall cause a medical examination to be made of the recipient who is at least six

1 months less than the age of compulsory retirement for service
2 applicable to members of the class or category in which it is
3 proposed to employ him or her. The board, or in case of a local
4 safety member, other than a school safety member, the governing
5 body of the employer from whose employment the person was
6 retired, shall also cause the examination to be made upon
7 application for reinstatement to the position held at retirement or
8 any position in the same class, of a person who was incapacitated
9 for performance of duty in the position at the time of a prior
10 reinstatement to another position. The examination shall be made
11 by a physician or surgeon, appointed by the board or the
12 governing body of the employer, at the place of residence of the
13 recipient or other place mutually agreed upon. Upon the basis of
14 the examination, the board or the governing body shall determine
15 whether he or she is still incapacitated, physically or mentally,
16 for duty in the state agency, the university, or contracting agency,
17 where he or she was employed and in the position held by him or
18 her when retired for disability, or in a position in the same
19 classification, and for the duties of the position with regard to
20 which he or she has applied for reinstatement from retirement.